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Referred to..... MARY NICHOLS

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327 TESTIMONY OF MARY D. NICHOLS, SECRETARY FOR RESOURCES, STATE
328 OF CALIFORNIA

329 Ms. NICHOLS. Thank you, Mr. Chairman. Thank you for
330 inviting me here today to testify on behalf of the State of
331 California in support of the CALFED Bay-Delta program. I
332 have brief remarks which were submitted for the record, and I
333 will summarize them and be even more brief, so as to have
334 more time to answer your questions.

335 Deputy Secretary Hayes has outlined the key elements of
336 the Framework in his testimony, and I know you have received
337 in the past extensive briefing materials from CALFED, so let
338 me just focus on the State's role and on the need for
339 continued Federal support and funding.

340 First of all, I cannot overemphasize the importance of
341 this program to the Davis administration. As the Governor
342 said when the Framework was issued, "Today California is
343 launching the largest and most comprehensive ecosystem
344 restoration and watershed management program in the world...
345 As Governor of this State, I am proud of what we have
346 accomplished and I will make it my business to ensure that
347 this effort is carried out in a balanced, responsible
348 manner."

349 We believe that the plan that has been put forward has
350 already attracted a considerable broad-based, bipartisan

351 support; that it is comprehensive; that the detailed set of
352 actions and time lines for each program reflect balance; and
353 that it is indeed a balanced as well as an aggressive program
354 to solve many of California's water problems, including our
355 problems with water quality as well as water supply.

356 And we also recognize that this plan cannot be
357 implemented overnight, and that there will continue to be
358 conflicts, as there historically have been, over competing
359 uses of Delta supplies, particularly during the next few
360 years until we can put new storage and new conveyance
361 projects on line, and until we can see that our State's
362 fisheries are on a path to recovery. But we believe that the
363 framework that has been put out by the Governor and the
364 Secretary of Interior represents the best hope for addressing
365 these conflicts through a sustained, long term effort, and
366 that it will form a basis for continued engagement with
367 stakeholders.

368 The plan can't be successful, however, without adequate
369 funding. I want to thank the subcommittee for your past
370 support of this program, and urge your support for the
371 President's request for \$60 million in the fiscal year 2001
372 budget. We believe that this appropriation is essential to
373 maintain the momentum behind this program, as well as to
374 assure that we have a balanced set of programs and projects
375 moving forward to support California's environment and our

376 | economy.

377 | As you know, the State has this year put forward a number
378 | of sources of funding. We have Proposition 13, which the
379 | Governor led the battle for enactment. Fortunately, the
380 | public responded with a two-thirds vote in support, which
381 | includes \$250 million for implementation of the CALFED
382 | program approved by the voters, along with \$180 million in
383 | interim water quality and water supply reliability projects,
384 | \$200 million in groundwater storage projects, and a broad
385 | range of programs that will also be aimed at improving water
386 | quality, water use efficiency, and the health of our
387 | watersheds.

388 | This will join with funds that were passed during the
389 | last administration under Governor Wilson, which provided \$60
390 | million for ecosystem restoration projects, and will also
391 | make available an additional \$390 million upon certification -
392 | of the Record of Decision.

393 | In addition to that, taking advantage of the State's good
394 | economy, Governor Davis has included \$155 million in this
395 | year's State budget for the support of the Environmental
396 | Water Account, the Integrated Storage Investigation, and
397 | other key elements of the program.

398 | Truly, these commitments represent an extraordinary and
399 | unprecedented investment in the State's water management
400 | system.

401 Now, we also recognize that the Federal Government has
402 made substantial commitments in the past to the program, and
403 that this request that we are asking for this year will
404 represent the fourth year of Federal funding. We believe,
405 however, that continuing the funding that has been there in
406 prior years is essential to maintain both a sense of Federal
407 partnership and commitment, and also to assure that there is
408 balance throughout the various elements of the program.

409 Again, I want to thank you for your continued support and
410 leadership;, to acknowledge that we have in the weeks to come
411 much work to do, including further outreach to all of the
412 stakeholder communities that are affected by this program;
413 and we are looking forward to answering whatever questions
414 you may have. Thank you.

415 [The statement of Ms. Nichols follows:]

416 ***** INSERT *****

640 then--obviously with Ms. Nichols there would be the Resources
641 agency--were there other California agencies involved in this
642 smaller group?

643 Ms. NICHOLS. Yes, Mr. Chairman. When we were discussing
644 all of the issues relating to regulatory assurances and
645 future water supplies, we had the Governor's office,
646 California Resources Agency, California Environmental
647 Protection Agency, Department of Fish and Game, the
648 Department of Water Resources. Those were the key groups
649 that were represented.

650 Mr. DOOLITTLE. And were there California legislators
651 involved in the development of the Framework?

652 Ms. NICHOLS. When we were actually negotiating with the
653 feds, if I may call them that, on the details of the
654 Framework, I would say we did not have legislators in the
655 room during these discussions. We did ask Congressman Gary
656 Condit to participate with us, and he was able to participate
657 in I would say roughly three-quarters or more of the
658 conversations, to reflect the view of the Valley,
659 particularly of the water user community. And we have
660 briefed a number of our State legislators, particularly
661 Assembly Member Machado and Senator Costa, who have been
662 Chairs of the two Water Committees in the two houses of the
663 legislature, and who have had a very keen, day-to-day
664 interest in what was going on.

665 Mr. DOOLITTLE. But you kept them briefed, the Chairs of
666 the legislative committees in California?

667 Ms. NICHOLS. Yes. They also held oversight hearings.
668 The Assembly committee held weekly oversight hearings for a
669 period of some months, which CALFED and a number of us
670 testified at.

671 Mr. DOOLITTLE. You have alluded in your answer, leading
672 into my next question, that Mr. Condit, a Member of Congress,
673 was present in the discussions. Were there other Members of
674 Congress present?

675 Ms. NICHOLS. No, sir, there were not.

676 Mr. DOOLITTLE. And were there stakeholders involved in
677 the development of the Framework in this smaller group?

678 Ms. NICHOLS. As I think Mr. Hayes testified earlier, the
679 goal actually was to respond to a request that we had heard
680 over and over from members of the Bay-Delta Advisory
681 Committee and the stakeholder community, that they felt that
682 ~~they felt that~~ they had been spinning their wheels for 5
683 years; that every issue that could be identified had been
684 identified, and they wanted the policymakers to get into a
685 room and make some decisions, at least make some proposals
686 and put them back out on the table so people could react to
687 them, and we responded to that request.

688 Mr. DOOLITTLE. So then there were no stakeholders
689 present in this group that you and Mr. Hayes--

690 Ms. NICHOLS. That is correct. We specifically did not
691 invite them into the room.

692 Mr. DOOLITTLE. Right, and I understand your explanation.

693 Mr. Dooley, I will recognize you for your questions.

694 Mr. DOOLEY. Just in reference to the comments the
695 chairman was making, I just want to applaud you in what you
696 have been able to achieve, because if we did have all the
697 stakeholders trying to develop this Framework, it never would
698 have been developed. And it is unfortunate that we had to
699 utilize a process such as it was, but I think now what we
700 ought to be focusing on is really the content and the merits
701 of the Framework that you folks have presented.

702 One of the issues that I am most concerned with is that
703 we move forward with trying to ensure that we improve the
704 water supply reliability, and one of those central components
705 is the Environmental Water Account. Representing an area
706 south of the Delta who currently in some of those water
707 districts, in particular Westlands, which is currently only
708 being provided about 45 percent of contracted supplies on an
709 average year, there are still some concerns that part of this
710 Environmental Water Account, which I understand is relying on
711 the purchase of 150,000 acre feet south of the Delta, some of
712 which is already being purchased by water users in Westlands
713 Water District down there, how is this not going to have an
714 adverse impact on water supply availability to not only

715 Westlands but other contractors south of the Delta?

716 Mr. HAYES. Congressman, I would be happy to take a crack
717 at that one. This was a central issue in our discussions.
718 First of all, the concerns of the agricultural community with
719 regard to water supply reliability was a concern that we are
720 very aware of and felt we needed to address frontally. And
721 you will notice in the Framework agreement that there are
722 representations that this agreement anticipates that south of
723 Delta agriculture will actually return to a water supply
724 reliability in the short term that predates the CALFED
725 accord. That is extremely significant, and it lays down a
726 marker for Federal agencies in particular associated with the
727 CVP to provide that kind of increased reliability.

728 The Environmental Water Account is a definite part of
729 that. Perhaps the greatest threat to reliability for south
730 of Delta agriculture is regulatory take, if you will, of
731 water supply, because of uncertainties in the administration
732 of the Endangered Species Act. That has been a central
733 problem in the last several years, the possibility that
734 because of ESA requirements, supplies that ag folks are
735 depending on will not in fact be available due to their need
736 for the Endangered Species Act.

737 The concept of the Environmental Water Account is very
738 helpful to addressing that issue, because it essentially says
739 that we will create a water supply to deal with the

990 that committee, able to be part of the discussion and at the
991 table, so to speak, so we knew that our Southern California
992 interests were being protected, so to speak? And I say that
993 very seriously because I have had great concerns in the past
994 decade over where we are going to end up in Southern
995 California. We generate most of the revenue, and yet we have
996 to fight to be able to get a good supply of the water. We do
997 have a vested interest in this.

998 Ms. NICHOLS. Ms. Napolitano, if I may, on behalf of the
999 State, just jump in here for a moment, I recognize you
1000 addressed your comments to Mr. Hayes but I did want to raise
1001 a point with you, because on behalf of the Governor we
1002 really, I think, took a leadership position both in terms of
1003 Proposition 13, the nearly \$2 billion that was passed by the
1004 voters in March, and the budget that the Governor has put
1005 forward this year, as well as in crafting a CALFED program in
1006 which, in my judgment, a more than equal share of the revenue
1007 is going to be directed to Southern California.

1008 We took the liberty of having the staff of CALFED produce
1009 some maps which we would like to share with the committee, if
1010 we could, that sort of graphically display what the specific
1011 water management tools are for each area of the State, and
1012 with permission I will have Steve Ritchie submit them for
1013 your view.

1014 But basically, with respect to Southern California, the

1015 elements that we are specifically targeting, in addition to
1016 just overall improvements in the Bay-Delta system, which of
1017 course is critical to us, our specific funding for water
1018 recycling programs, for improved water treatment, watershed
1019 protection for the terminal reservoirs, implementing
1020 watershed management programs, and a commitment to streamline
1021 the water transfer process, again to make it easier for, for
1022 example, when the metropolitan water district is talking
1023 directly with people who get their water from the Sierra, to
1024 be able to make those conversations go more easily, so that
1025 there is a possibility to offset some of the strain on the
1026 Delta supplies and potentially acquire water from willing
1027 sellers that are closer to the Southern California water
1028 markets.

1029 I note that in Mr. Calvert's district just today there
1030 has been a wonderful announcement on the Chino Basin reaching
1031 an agreement, a settlement there on the water management for
1032 that very degraded, if you will, very challenged groundwater
1033 basin, where we now have an agreement on how that is going to
1034 be protected and cleaned for the future. And we see those
1035 groundwater basins in Southern California as a critical
1036 element of the future water supply. They have not been able
1037 to be used in many instances for provision of drinking water
1038 because of past problems, but we view funding from the State
1039 going into those areas, working with the local water

1040 districts, as being a key element of solving this whole
1041 puzzle.

1042 It is a complex picture, and again I want to say that we
1043 are guilty of having gone off behind closed doors, if you
1044 will, to try to put this package together. But, as was
1045 indicated earlier, we had so many different projects and so
1046 many different proposals and so many different funding ideas
1047 that had come through the CALFED stakeholder process, and no
1048 agreement on a package, on a total package, that we just had
1049 to go off and say, ``Here is a proposal. Here is a
1050 Framework.'' Now, you know, people can be happy or unhappy
1051 with pieces, but here is a total picture that we think has
1052 something in it for everybody.

1053 Mrs. NAPOLITANO. But you understand the impression that
1054 you have given by going behind those closed doors has created
1055 on both sides?

1056 Ms. NICHOLS. Yes, we do, but I would have to say that we
1057 have been very gratified within California by the extent of
1058 the bipartisan support that we have received for the
1059 Framework.

1060 Mrs. NAPOLITANO. And we want to keep that. That is why
1061 I am asking, to be sure that we are able to have everything
1062 out front and above board--

1063 Ms. NICHOLS. I appreciate your comments.

1064 Mrs. NAPOLITANO. --so that we are working on that

1065 | premise. And in looking at your map, while this is of course
1066 | a great CALFED program, I see Southern California is one of
1067 | the lower, and out of what, five different areas, six
1068 | different areas that you are targeting, we are one of those.
1069 | And sometimes we end up getting, I hate to say this, the
1070 | shaft.

1071 | Ms. NICHOLS. Well, we get the money, though, I think,
1072 | and we should perhaps--

1073 | Mrs. NAPOLITANO. Well, you need to ask us and keep us
1074 | informed so that we are able to support that request for the
1075 | funding. You get our frustration up here, too?

1076 | Mr. HAYES. Yes.

1077 | Mrs. NAPOLITANO. Okay. Thank you.

1078 | Thank you, Mr. Chair.

1079 | Mr. DOOLITTLE. Thank you. Mr. Pombo is recognized.

1080 | Mr. POMBO. Thank you, Mr. Chairman.

1081 | Mr. Hayes, just before I get to my questions, I wanted to
1082 | give you an opportunity to correct the impression that you
1083 | gave the committee. You said that the State legislators were
1084 | no more informed than we were as to what was going on in
1085 | those meetings.

1086 | And just to be fair, I have a letter that was sent out by
1087 | one of my local water agencies where Assemblyman Machado
1088 | succeeded in obtaining some last-minute improvements to the
1089 | proposal. If that is an accurate statement that Assemblyman

1290 recovery, right now. Now, are they going to be protected
1291 from any further requirements?

1292 Mr. HAYES. We are developing a multiple species
1293 conservation plan that will be able to be entered into by a
1294 large number of water users, specifically to provide the kind
1295 of assurance that you are looking for. That--

1296 Mr. POMBO. Will that be part of this agreement?

1297 Mr. HAYES. Yes, ultimately that is part. It is a
1298 parallel process. We are proceeding, as you know--

1299 Mr. POMBO. I haven't seen that, and I thought I had read
1300 this agreement, and I don't see anything about that.

1301 Mr. HAYES. No, the focus of this agreement and the focus
1302 of CALFED, as the committee knows, for the last 5 years has
1303 been the conflicts, the direct conflicts that have happened
1304 right at the Delta, and those have been the toughest issues.

1305 Mr. POMBO. We are talking about the Delta.

1306 Mr. HAYES. Yes.

1307 Ms. NICHOLS. Excuse me. I am sorry to interject, but I
1308 think there may have been a point of confusion here. The
1309 multispecies conservation plan that deals with the Delta and
1310 deals with all of the Endangered Species Act issues for the
1311 Delta region is being developed right now, and is intended to
1312 be completed at about the same time as the ROD, which means
1313 at the end of August. We are talking about Labor Day.

1314 Once that is completed, although it is under a different

1315 section of statute, then what we are doing with the
1316 Environmental Water Account and those assurances, that will
1317 provide exactly the same type of assurances, the ``no
1318 surprises``--

1319 Mr. POMBO. And they won't be required to give up any
1320 more water than what they currently are?

1321 Ms. NICHOLS. There are no future listings, and therefore
1322 no regulatory requirements on their water. That is what the
1323 issue--

1324 Mr. POMBO. You can't promise me that, and that is a
1325 false statement, Mr. Chairman.

1326 Ms. NICHOLS. Sir, with respect to the regulations that
1327 we are talking about--

1328 Mr. POMBO. Mr. Chairman, I know my time has expired. I
1329 hope that we have an opportunity for another round of
1330 questions, because this, I can't believe that you will come
1331 in here and testify before this committee something that
1332 every one of you knows that you can't back up. Unless you
1333 are willing to amend the Endangered Species Act to protect
1334 all of these property owners and all of these water users,
1335 you know as well as I do that you cannot back up that
1336 statement, because there is nothing in current law that would
1337 allow you to enter into an agreement that completely
1338 dismisses the future needs under the Endangered Species Act.

1339 Mr. HAYES. Let me, if I can, we have over 200 such plans

1665 authorization. How willing are you to work with us to be
1666 able to put that type of assurance in this reauthorization?

1667 Mr. HAYES. We are happy to work closely with you.

1668 Mr. RADANOVICH. Okay. Good.

1669 Mr. HAYES. We are happy to work closely with you.

1670 Mr. RADANOVICH: All I am looking for is legislative
1671 assurance, because administrative assistance has been poor
1672 and not followed up with in the past.

1673 Mr. HAYES. Right. The only caveat, I should say,
1674 Congressman, is that obviously we are concerned about
1675 sufficiency language that overrides the normal administration
1676 of the Endangered Species Act. We think the Endangered
1677 Species Act now, with the regulatory structure that this
1678 administration has put in place, and which is spinning out
1679 "no surprises" policies, agreements, around the country,
1680 provides a solid legal regulatory framework upon which this
1681 Framework can be based.

1682 Mr. RADANOVICH. Then why don't you work with me to put
1683 it legislatively into this reauthorization, so that everybody
1684 else in this country can have the same confidence that the
1685 administration has in this? Because they don't, I tell you.

1686 Mr. HAYES. Right.

1687 Mr. RADANOVICH. Who is responsible for this?

1688 Ms. NICHOLS. The maps were generated by--

1689 Mr. RADANOVICH. The maps.

1690 Ms. NICHOLS. Yes, they were generated by the staff of
1691 CALFED.

1692 Mr. RADANOVICH. Under the San Joaquin River and south
1693 San Joaquin Valley key water management actions, number 8 is
1694 ``Fund locally controlled groundwater banking.'' What
1695 specifically is number 8? Is that site-specific?

1696 Ms. NICHOLS. No, it is not. It is just an overall pot
1697 of money that we are proposing to make available for that
1698 purpose.

1699 Mr. RADANOVICH. I is conspicuously close to a project
1700 that I will die to prevent getting in my 19th Congressional
1701 District, so I would suggest you move that ``8'' anywhere but
1702 in my district. Thank you.

1703 Ms. NICHOLS. Thank you. It was not intended to display
1704 any particular location, but we will make sure that that
1705 indication--

1706 Mr. DOOLITTLE. Is there objection to Mr. Herger and Mr.
1707 Ose sitting with the committee and propounding questions?

1708 Seeing none, Mr. Herger is recognized.

1709 Mr. HERGER. Mr. Chairman, I thank you very much for
1710 allowing me to sit with you this committee, on this issue
1711 that is incredibly important to the constituents of my
1712 Northern California district, and I thank you. It is
1713 particularly a pleasure to see two of the eight members of
1714 this panel are constituents of mine. Supervisor Bryan, it is

1890 Mr. OSE. Thank you, Mr. Chairman.

1891 If I may be blunt, how does the State propose to, or for
1892 that matter the Department propose to set aside existing
1893 California Supreme Court adjudicated decisions regarding
1894 local control of groundwater?

1895 Ms. NICHOLS. Mr. Ose, I will respond to that question on
1896 behalf of the State of California. First of all, if I may,
1897 my remarks will be a little broader because I would like to
1898 respond also a bit to Mr. Herger's point.

1899 Mr. OSE. Well, you are going to have to go back to Mr.
1900 Herger's time, then.

1901 Ms. NICHOLS. All right. I won't take up your time with
1902 the answer, then.

1903 The response on that is, this covers the whole of the
1904 groundwater management piece. You have got one piece of the
1905 52-page document which is a Framework covering a Record of
1906 Decision which is going to be many thousands of pages of
1907 detailed discussion. The only discussion of groundwater in
1908 that document is in Appendix H, where it discusses
1909 groundwater legislation and says that it will be essential to
1910 have long-term, effective management of the groundwater in
1911 order to succeed in a number of the different programs.

1912 Frankly--

1913 Mr. OSE. Secretary Nichols?

1914 Ms. NICHOLS. Yes?

1915 Mr. OSE. That implies to me a change in current law.

1916 Ms. NICHOLS. We have said--

1917 Mr. OSE. What I am trying to get to is an understanding
1918 of your strategy for accomplishing it.

1919 Ms. NICHOLS. Yes, and I was going to just get to that.

1920 We believe that the document does not reflect our approach to
1921 this issue, because frankly the approach has not been
1922 developed, and I want to be clear about that. We do not have
1923 proposed legislation. We have an intent to work with the
1924 counties.

1925 And I am deeply sorry that they have interpreted this
1926 document as meaning a lack of intent to do that, because
1927 although this was put out at the end of some longer
1928 discussions that had taken place on watershed management and
1929 other issues, which had included a number of supervisors from
1930 rural counties, plainly they had not communicated with all of
1931 their colleagues about this issue. But I can assure you here
1932 that the Davis administration is not planning to put forward
1933 legislation to take over groundwater management or to take
1934 away any existing powers of local government.

1935 I would also like to make it very clear that we are not
1936 trying to take a position as between counties and water
1937 districts or water agencies about groundwater management. We
1938 have legislation that is in effect today, that allows for
1939 development of local groundwater management plans. The

1940 Governor supports that legislation. We believe we should
1941 allow it to work, and we want it to succeed.

1942 In the long run, if the State of California is going to
1943 be putting money into the development of groundwater storage
1944 facilities, we want to see guarantees that those facilities
1945 are going to be available to the State to use for purposes of
1946 storing water that would be used for ecosystem benefits.
1947 That is a key issue for us, but that is the only State
1948 control issue that we have a position on at this point.

1949 Mr. OSE. In effect, what I hear you saying, which is
1950 oftentimes the way it is in business, is that "I'm willing
1951 to be your partner, but if you ask me for money or support,
1952 then I need to get something for that," as it relates to
1953 these groundwater management plans. In other words, if the
1954 State is asked to contribute to the creation or preservation
1955 of these groundwater management plans financially, then there
1956 is some sort of a trade-off in terms of working together to
1957 maximize the use of those.

1958 And if I could, in effect, take that and turn it a little
1959 bit, I would suggest to you that with respect to the, if I am
1960 correct, \$8 or \$9 billion that is envisioned in this plan, if
1961 there are folks who are expecting the Congress to foot a bill
1962 or a portion of a bill that would implement this plan, I
1963 would encourage all parties to make sure that they account
1964 for the interests of people who actually serve in Congress.

2190 Ms. NICHOLS. Three to four years. We are looking at, I
2191 believe, between the end of 2003 and the beginning of 2004.

2192 Mr. DOOLITTLE. How many acre feet are we talking about
2193 from that?

2194 Ms. NICHOLS. It was to increase it up to 85 cfs. We
2195 have not been able to reach that level, although the pumps
2196 physically can do it, but we haven't--

2197 Mr. DOOLITTLE. Okay, that is cfs. Does anybody have any
2198 idea of acre feet? Mr. Hayes gave me--just say that again,
2199 will you, please?

2200 Mr. HAYES. This is from Lester Snow, more knowledgeable
2201 than I: 200,000 to 500,000 acre feet.

2202 Mr. DOOLITTLE. Okay, so in 3 to 4 years we could be
2203 looking at that.

2204 And I interrupted you in your list, Mr. Hayes. Go ahead,
2205 please.

2206 Mr. HAYES. Well, let me mention one of the specific.
2207 The San Luis bypass is a proposal that is going to be studied
2208 very intensely under the proposed framework. That bypass has
2209 the potential to, in essence, free up 200,000 acre feet of
2210 additional water. The bypass would essentially be a physical
2211 structure that would enable Silicon Valley, late in the
2212 summer, to take water directly off of the aqueducts that are
2213 coming south from the pumping plants, rather than rely on the
2214 poor water quality that is left in the aqueduct--in San Luis

2415 Mr. POMBO. I do know that there is talk of land
2416 retirement or negotiations ongoing for a number of years
2417 south of the Delta, for a different problem. But north of
2418 the Delta, and I do notice that you have what you refer to as
2419 ``habitat restoration`` throughout this particular document--

2420 Ms. NICHOLS. Yes, Mr. Pombo. If I could just add, I
2421 think there is a big shift in this document from some of the
2422 previous emphasis, and from our perspective this is one of
2423 the things that we worked hard on, was to make sure that the
2424 primary focus in terms of habitat is on land that the
2425 government already owns, because we are very well aware of
2426 the fact that one of the issues in many areas, in many
2427 counties, is that the government is not regarded as doing a
2428 good job of stewardship on its own land. And we recognize
2429 that we have the ability in a more cost-effective and less
2430 disruptive way, frankly, to increase habitat on land that we
2431 are currently responsible for, before we go out and try to
2432 work on private land projects.

2433 As Mr. Hayes indicated, there has been an absolute
2434 agreement on both sides that they are only talking to willing
2435 sellers, but I think it is important to recognize that also
2436 sale or purchase of land ought to be the last tool that we
2437 would look to; that we really are increasingly being able to
2438 undertake projects where the landowner retains economic use
2439 of the land, and the government's role is to supplement that

2440 to make it possible for that landowner to do some additional
2441 work that increases or protects habitat over and above what
2442 would be economically feasible then. And those are the types
2443 of projects that we are emphasizing in CALFED.

2444 Mr. POMBO. I would like to ask you to provide for the
2445 record what types of land you are talking about buying. If
2446 we are--and I will take your figure--down to 200,000 from
2447 400,000, that is going in the right direction, and just keep
2448 going, but it is going in the right direction. If we are
2449 down to that, just to kind of put that in context for you,
2450 the way that the original draft document was put together,
2451 the bulk of that land was in my district.

2452 I have about 460,000 of irrigated farmland in San Joaquin
2453 County, and originally they were talking about retiring
2454 400,000 acres. And it is great if you protect the private
2455 property owners, and you can talk about willing buyer,
2456 willing seller, and all that. That is fine, but the impact
2457 on my county of you retiring most of the farmland will be
2458 immense. It is still the number one industry in my district,
2459 by far, and the impact that has is immense.

2460 I would like to ask you, in reviewing your document, you
2461 talk about improving fish passage through modification or
2462 removal of the following locally owned dams, and you list a
2463 number of dams, most of which I am familiar with. Has a
2464 decision been made as to which dams are going to be removed

2465 | and which ones are going to be modified?

2466 | Because you have another sentence in there where you
2467 | identify one or two other dams that you say will be modified
2468 | in concert with the local officials, but you have these
2469 | several dams up there in one section that says they are
2470 | either going to be modified or removed. Have you made a
2471 | decision about which ones are going to be removed?

2472 | Ms. NICHOLS. No, we haven't.

2473 | Mr. POMBO. Have you talked about which ones are going to
2474 | be removed?

2475 | Ms. NICHOLS. My understanding is that those were dams
2476 | that were nominated as a result of local processes, and that
2477 | is why they were put on the list, but the State has not
2478 | reviewed them yet. We don't have funding identified or
2479 | projects identified as of yet.

2480 | Mr. POMBO. Maybe you can reassure me. Can you tell me
2481 | that these dams are not going to be removed?

2482 | Ms. NICHOLS. Well, I can't assure you that they will
2483 | never be removed, but my understanding is that they have to
2484 | go through an extensive process of review, including public
2485 | review and environmental impact documentation as well as cost
2486 | effectiveness studies, before there could be any removal of
2487 | any dams.

2488 | Mr. POMBO. So what you are telling me, we just don't
2489 | know yet whether these are going to be removed?

2490 Ms. NICHOLS. That's correct, but I think it is fair to
2491 say that these are being looked at, so I can't say that we
2492 are never going--you know, that we are taking them off the
2493 list at this point. They are being studied because they have
2494 been nominated by some local group as candidates.

2495 Mr. POMBO. Okay. My time has expired. I thank you, Mr.
2496 Chairman.

2497 Mr. DOOLITTLE. I think we will take a 5-plus minute
2498 recess, just to have a little break, and then we will come
2499 back. We have had an extraordinarily long period without a
2500 vote, which we had expected sooner. So the committee will
2501 recess for 5 or so minutes.

2502 [Recess.]

2503 Mr. DOOLITTLE. All right. Let's reconvene, and I
2504 believe the time belongs to Mr. Herger. We don't have
2505 everybody here yet. We will get them here.

2506 Ms. NICHOLS. I think Mr. Hayes took advantage of your
2507 suggestion that he take a break, so he is not here, but if
2508 you have any questions for me, I could fill in.

2509 Mr. HERGER. Well, thank you, Mr. Chairman, and just to
2510 again follow up with a serious challenge we all have to meet
2511 in our State, I would like to just read a quote from the
2512 California Department of Water Resources, from the California
2513 Water Plan Update Bulletin 160-98, the executive summary.
2514 And from page ES5-3, it goes into the challenge we have as

2640 owners as well as our counties, and somehow making it larger,
2641 frightens me very much, and I believe is not unwarranted
2642 paranoia. I think it is warranted, and something that we
2643 have to, cannot allow to take place.

2644 I know my time is up here. Chairman Doolittle, are we
2645 going around again. There is one other big issue I would
2646 like to pick up on.

2647 Mr. DOOLITTLE. Yes, we will go around again.

2648 Mr. HERGER. Well, with that, I will conclude. Thank you
2649 very much.

2650 Mr. DOOLITTLE. Would someone like to respond to the
2651 concerns raised by Mr. Jackson?

2652 Ms. NICHOLS. I will make a couple of points here. First
2653 of all, you know, the comments that Mr. Jackson began with
2654 about the status of various projects relating to surface
2655 storage are very well taken. We have a history over recent
2656 years in California of not having been able to build any new
2657 storage projects. There is simply no doubt about that.

2658 I think that is precisely why we need and needed CALFED,
2659 why the Governor believed that we needed a water bond, and
2660 why he worked so hard to get the two-thirds support in the
2661 legislature, which did include bipartisan votes, and which
2662 specifically said surface storage was going to be one of the
2663 areas where we were going to be spending money, was to build
2664 new surface storage.

2665 Those were terms that some people, particularly some in
2666 the environmental community, believed should never have been
2667 spoken and thought would never happen under CALFED. And here
2668 we are, only months later, with money in the budget and with
2669 a commitment on the part of the State and Federal agencies to
2670 pursue new surface storage projects.

2671 Now, does that mean they have been built? No, they
2672 haven't. They haven't passed through all the hoops that they
2673 have to go through, but I think there is a big difference
2674 between a project which is discussed perhaps in the water
2675 developer community and then shot down when it gets to the
2676 regulatory agencies, versus projects where you have a
2677 consensus on the part of the policy leadership, including the
2678 regulatory agencies, that these are projects that they
2679 believe are likely to pass muster and want to see money spent
2680 pursuing.

2681 So, again, no guarantees, but we are on a path here which
2682 definitely includes a commitment to new surface storage,
2683 which is--

2684 Mr. DOOLITTLE. Well, let me ask you for a minute on that
2685 point--

2686 Ms. NICHOLS. Yes, please.

2687 Mr. DOOLITTLE. --when we saw those terms and heard them
2688 used, we believed we were talking about more water for our
2689 areas, more yield, because that traditionally has been I

2690 think the understanding of storage, although technically that
2691 is not necessarily so.

2692 But now we have heard from Mr. Jackson, and I have heard
2693 it from others, the Shasta raise, for example, is really not
2694 about new yield particularly. And to the extent there is
2695 some increase in yield, it is really intended for
2696 environmental purposes. So am I missing something there?
2697 That doesn't seem to be providing the type of storage that we
2698 had in mind.

2699 Ms. NICHOLS. Well, let me try to clarify that issue a
2700 little bit. There is no question that CALFED, the document
2701 as a whole, takes a different perspective on how we are going
2702 to fix California's water problems than has been taken in
2703 some of the documents, some of the proposals that you have
2704 probably seen over the years in the past, and that frankly
2705 have all failed.

2706 One of the key issues here is, we are facing a situation
2707 where, because of the Endangered Species Act, because of real
2708 world degradation of water quality as well as the
2709 environmental quality within the Delta region itself, because
2710 of problems with our existing plumbing system, if you will,
2711 as well, simply lack of some conveyance facilities and some
2712 storage in places where the water is needed, the reality is
2713 that our existing water system is not working as well as it
2714 was designed to work, and it can't work that way until it is

2715 fixed.

2716 Now, I think the basic, maybe it is a simplistic way of
2717 looking at this, is if you are trying to approach
2718 investments, new investments in the water system, from a cost
2719 effectiveness point of view and to put your money first at
2720 the places where you are going to get the most bang for your
2721 buck, the finding that has come out of all these years of
2722 work on CALFED is that we have got to fix the existing system
2723 that we have got first before we go out and start talking
2724 about brand new water supply projects. And the basic reason
2725 behind that is because of our history, that in the past the
2726 projects that we built, the on-stream water storage projects,
2727 caused huge environmental projects and for years now we have
2728 been paying heavily in the form of water as well as other
2729 costs for those mistakes, if you will, of the past.

2730 So our first effort here in CALFED is to try to spend our
2731 money on things that will get the water to the people and to
2732 the fish, for that matter, when they need it, first, before
2733 we go out and look for the things that are going to be much
2734 more difficult and much more costly to do.

2735 And we believe, based on the plan that we have put
2736 forward here, that for the next 4 to 7 years, really 7 years,
2737 that California can have the water that it needs at a level
2738 of reliability that is better than we enjoy today, with
2739 better water quality than we have today, and with an

2740 ecosystem that is on its way to improvement as opposed to
2741 continuing to decline. That is the goal. That is what we
2742 are trying to get to.

2743 We know it is complicated, and we know that there are
2744 pitfalls along the way, one of which is obviously great
2745 concern on the part of people who are overlying landowners
2746 about any new groundwater storage facilities coming into
2747 their basin. And that is one of the reasons why we have had
2748 to be, you know, very careful, and we obviously weren't
2749 careful enough about making it clear that these would be
2750 locally initiated, locally operated projects.

2751 Mr. DOOLITTLE. Well, it sounds to me like you are
2752 conceding Mr. Jackson's point, then, that there is
2753 essentially no effective or little effective yield on these
2754 so-called water storage projects that are being advanced to
2755 make the members of this committee feel better about this
2756 Framework.

2757 Ms. NICHOLS. Well, actually we do have--I have seen some
2758 numbers, and I am also not going to pretend to be the expert
2759 on the numbers. But earlier today I had a briefing from Mr.
2760 Snow of the Bureau of Reclamation which indicated that,
2761 depending on which year you are talking about, wet year, dry
2762 year, etcetera, with the water storage projects, just the
2763 surface water projects that we are talking about here, we
2764 were looking at somewhere between 200,000 and 800,000 acre

2765 | feet of ``new`` water or yield.

2766 | But what I am trying to say to the committee is, I want
2767 | you to accept the fact that we are thinking about these
2768 | issues in a somewhat different way than what we would call
2769 | the old style or traditional yield assumptions, because we
2770 | don't believe that that is the way to look at how we are
2771 | actually going to serve the people that we have today with
2772 | the water that they need.

2773 | Mr. DOOLITTLE. Well, I hear you saying that and, you
2774 | know, you have put us in the position of being old style
2775 | traditionalists, I guess. But then we are conservative
2776 | Republicans, so I will wear the label. We like classic
2777 | yield, and this other stuff I am hearing is very fuzzy, and
2778 | when you really get down to it, I don't see anything there.

2779 | And I want to be hopeful, I want to be positive, I want
2780 | to be helpful, but we have seen for 20 years in our State we
2781 | have effectively added no new yield to the system. It is
2782 | like airplanes aren't designed to run at 100 percent of their
2783 | engine's capabilities. They are designed, I think, to run at
2784 | three-quarters of it, so that when they get into trouble,
2785 | they have got what they call response capacity.

2786 | And what I see happening here in California is, we have
2787 | lost our response capacity. We can't design a system that is
2788 | expected to run at 100 percent maximum efficiency because we
2789 | are going to have dry years. What if we have just entered

2790 | the first year of a 7-year drought, or are about to do so?
2791 | what is going to be the plan then?

2792 | Ms. NICHOLS. Well, if I could just, first of all, just
2793 | to take your analogy one step forward, and then I will answer
2794 | your question, and I will also give Mr. Hayes a crack at the
2795 | microphone here. I am sorry.

2796 | I would say that we had a system that perhaps was
2797 | designed to operate at three-quarters efficiency, that has
2798 | been operating at something like half efficiency, and we are
2799 | trying to get it up to where it was designed to operate, by
2800 | virtue of a number of fixes that we think are reasonable and
2801 | that will lead to improvements for everybody, including the
2802 | environment.

2803 | As far as the drought year situation, we are concerned
2804 | about it, too. We are very concerned about it. We know that
2805 | the first 4 years of this program, until we get any new
2806 | storage and conveyance on line, we are going to be very much
2807 | holding our breath year-to-year to see whether we get the
2808 | rainfall that we need.

2809 | But the commitment that we have made, and we made it in
2810 | public and in the document, is that the Governor is going to
2811 | activate the drought water bank program that he put--that
2812 | Governor Wilson put into effect during the last drought. We
2813 | are going to learn some of the lessons of problems that they
2814 | had with that bank. We are putting together, by the end of

2815 July, a commission of appointees from around the State,
2816 people with expertise in water management, that are going to
2817 help us design it. But by the end of the year, we expect to
2818 have that drought water plan in effect and ready to go,
2819 because indeed it is a great concern to us as well.

2820 If I may, I think Mr. Hayes wanted to address your
2821 earlier question.

2822 Mr. DOOLITTLE. Sure. Yes, Mr. Hayes?

2823 Mr. HAYES. Thank you, Mr. Chairman.

2824 What we found in the CALFED process is the primary
2825 problem facing many water users in California today, is not a
2826 net access to water but it is a timing issue, in terms of the
2827 water being of high enough quality and available at the right
2828 time of year. And the issue is, there simply is very little
2829 flexibility in the system right now, and we believe that--and
2830 this is a huge breakthrough from a consensus basis, across
2831 water users and environmental groups, there is a recognition
2832 that very significant new infrastructure is needed.

2833 I just want to comment on Mr. Jackson's point. It is
2834 very easy to take pot shots at Los Vaqueros or at the
2835 in-Delta storage or any number of these new, proposed new
2836 structures, raising of Lake Shasta. The bottom line is that
2837 the Governor is on record and this administration is on
2838 record as wanting to go forward with these very significant
2839 projects and agreeing to an aggressive timetable that will

2990 benefits.''

2991 It is a prominent public official in the United States.

2992 Any guesses who it might be?

2993 Mr. Herger would agree with that, but it wasn't he.

2994 Mr. HERGER. Sounds like something you could say, Mr.
2995 Chairman.

2996 Mr. DOOLITTLE. I also agree with it, but the person who
2997 spoke it was none other than William Jefferson Clinton. So
2998 now that you know what he said, let me ask you, Mr. Hayes,
2999 and you, Ms. Nichols, tell me how you feel about dams.

3000 Mr. HAYES. Well, obviously this Framework agreement,
3001 which is supported by the administration, the Federal
3002 administration, and by the Governor, feels that there is a
3003 role for surface storage, and there is no question about
3004 that. And as you know, Congressman Doolittle, on issues like
3005 the Animas-La Plata project in southwestern Colorado, we
3006 recognize that there is a time and a place for a storage
3007 project, and that those projects have played an invaluable
3008 role in the West in many circumstances.

3009 Mr. DOOLITTLE. How about on-stream storage? Let's get
3010 really bold here.

3011 Mr. HAYES. I will let you go with that.

3012 Ms. NICHOLS. On that one he turns it over to the State
3013 of California.

3014 Well, Mr. Chairman, I am a card-carrying resident of the

3015 City of Los Angeles and a former board member of the Los
3016 Angeles Department of Water and Power. Although I was one of
3017 those people who was trying to solve the problems of Mono
3018 Lake and Inyo County, nevertheless I recognize our dependence
3019 on water supply in a place that doesn't have much of its own.

3020 But I have lived in California now for all my adult life,
3021 and I have not seen any situation where a major new water
3022 project that had substantial environmental opposition was
3023 able to succeed, period. The laws of this country give
3024 rights to groups who use them effectively in order to protect
3025 the interests that they feel have been violated by dams.

3026 And when I got to my friends in the Bay area and talk
3027 about even the modest surface storage expansions that we are
3028 dealing with today, and they are dams but they are surface
3029 storage, you know, we are greeted with something akin to the
3030 greeting that you would get if you came, you know, carrying
3031 the tuberculous--

3032 Mr.--DOOLITTLE. Even though they only have drinking water
3033 because of dams, in fact, one big one in the Yosemite
3034 National Park.

3035 Ms. NICHOLS. That is correct. But we could all pledge
3036 allegiance to dams, and at the same time we wouldn't be able
3037 to deliver on it. So, as a practical matter, the Governor
3038 has worked with the various constituency groups. It is not
3039 an issue that is foreign to him. He has been in public life

3040 in California, as you know, a long time. And his conclusion
3041 was that what we had in this Framework was the best deal that
3042 we could get at this point in time, and perhaps the only
3043 consensus that we could have that we could move forward on.

3044 And that is where we are, and that is why we are here
3045 asking for your support to move forward under this approach.
3046 As Mr. Hayes said, this is not the last word on the topic.
3047 Clearly things can be added and changed as we go along, but
3048 this is where we are.

3049 Mr. DOOLITTLE. Well, I am way over my time. I am going
3050 to turn it over to the next person, but I am just going to
3051 observe this: You represent the President of the United
3052 States, the Governor of California, and we represent the
3053 Congress. If we all got together, we would change some of
3054 these laws and we would make it easier to build dams. How
3055 about that?

3056 Mr. Pombo is recognized.

3057 Mr. POMBO. Was that a question to me? Now you have got
3058 me going on dams again. But they do have a list of dams they
3059 want to tear down. That should make your friends in San
3060 Francisco happy.

3061 Ms. NICHOLS. Mr. Pombo, if I could, by the way, I asked
3062 the question during the break about the particular dam that
3063 you were asking about, and it is being studied only for
3064 modification, not for removal. Specifically, they were

3065 | looking at the possibility of replacing it with a dam that
3066 | included a fish passage in it. That was what the project
3067 | study was based on, not on removal.

3068 | Mr. POMBO. We got into a discussion on land retirements,
3069 | and there is something that Mr. Herger brought up that made
3070 | me start thinking about how we are going to do all of this.
3071 | You have the assumption in this document that land retirement
3072 | equals more water, and that if you retire land from farming,
3073 | you are going to be able to take water from that and use
3074 | that.

3075 | The problem that comes up out of this, if you take
3076 | someone who is currently receiving 45 percent of their water
3077 | allocation, and they go bankrupt and become a willing seller,
3078 | and you then take that land and retire it and turn it into a
3079 | wetland or whatever you want to do with it, in current law I
3080 | know down in the valley that I believe the figure is, like
3081 | with grasslands, they get 75 percent of their water and can't
3082 | be cut back below that. By statute, they can't be cut back
3083 | below that.

3084 | If you take somebody who is getting 45 percent of their
3085 | water, and they become a willing seller, and you turn it into
3086 | habitat and then they get 75 percent of their water, you are
3087 | using more water. You are not saving any water by doing
3088 | that.

3089 | You also have the problem that when, with most farmers in

3890 | problem with one of the basins, it is twofold. Number one,
3891 | if there are people directly drinking water from those
3892 | sources, then they will need to be addressed before they get
3893 | to the tap. In the case of the framework agreement, the
3894 | contemplation of the use of groundwater storage is for
3895 | sources that will eventually end up in systems and be blended
3896 | with other sources, which is the way that drinking water is
3897 | provided, and that complex mix of how you blend your sources
3898 | to make sure that you meet public health goals.

3899 | So those are all implementation issues that would have to
3900 | be dealt with down the line, but it would not be any
3901 | different from any other source of water.

3902 | Mr. DOOLITTLE. Well, I am not sure that that is
3903 | reassuring, because 5 parts per billion may well require that
3904 | even if it is blended, that it will have to be treated. What
3905 | about that, Ms. Nichols, Mr. Hayes?

3906 | Ms. NICHOLS. I am not familiar with the requirements
3907 | that it would take to meet the standard, but certainly we
3908 | understand that most districts throughout the State are
3909 | facing increasing costs for treatment of the water in order
3910 | to meet health standards, and that is a serious concern.

3911 | Mr. DOOLITTLE. So it is just whatever it takes, we will
3912 | just spend the money?

3913 | Ms. NICHOLS. Well, I think there is a couple of things.
3914 | First of all, as Ms. Marcus indicated in response to an

3915 | earlier question, we think that treatment technology is an
3916 | area that we ought to be investing in for a number of
3917 | different reasons, because you can't just rely on blending
3918 | with fresh water or taking increasing supplies of that water
3919 | to meet the needs of the urban population. So increasingly
3920 | we are looking at reuse of water, at recycling of water, and
3921 | some of those technologies that used to be considered too
3922 | expensive in the past, like desalination, are becoming more
3923 | feasible and more economically reasonable, and that is where
3924 | we are going to be going.

3925 | Do we accept anybody's word for what the standards ought
3926 | to be? No. I don't speak for the drinking water side of the
3927 | house. That is under the Department of Health Services. But
3928 | I know they take a very active role in looking at these
3929 | proposals, and they give their own professional judgment
3930 | about what they think is reasonable in terms of water quality
3931 | standards.

3932 | Mr. DOOLITTLE. Ms. Marcus, to summarize your answer, I
3933 | guess it is ``no'' to the question, have you reconciled the
3934 | effect of the new standard and the ability to carry out the
3935 | proposals of the Framework.

3936 | Ms. MARCUS. I don't believe that any standard, wherever
3937 | it ends up being set through the process, is going to inhibit
3938 | the use of groundwater. It may require, as it would without
3939 | us using the basin for this additional water, some sort of